

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

UNITED STATES OF AMERICA

v.

NERY ALDAMI CRUZ-AGUILAR

No. 2:25-mj-108-KFW

**MOTION FOR LEAVE TO DISMISS  
COMPLAINT WITHOUT PREJUDICE**

The United States of America respectfully moves for leave to dismiss the Complaint in this case without prejudice.

Rule 48(a) of the Federal Rules of Criminal Procedure provides that the government “may, with leave of court, dismiss an indictment, information, or complaint.” Fed. R. Crim. P. 48(a). The “leave of court” requirement of Rule 48(a) is to protect criminal defendants from prosecutorial harassment in bringing multiple successive indictments, and to allow courts to consider public interest, fair administration of criminal justice, and preservation of judicial integrity when evaluating motions to dismiss. *See United States v. Borges*, 153 F. Supp. 3d 216, 219 (D.D.C. 2015).

Under the rule, courts must grant leave to the government to dismiss a charging document unless dismissal is “clearly contrary to manifest public interest.” *In re Ellis*, 356 F.3d 1198, 1209 (9th Cir. 2004) (quoting *Rinaldi v. United States*, 434 U.S. 22, 30 (1977)). *See also Rice v. Rivera*, 617 F.3d 802, 811 (4th Cir. 2010) (“Put succinctly, a Rule 48 motion that is not motivated by bad faith is not clearly contrary to manifest public interest, and it *must* be granted.”) (internal quotation marks omitted); *United States v. Jacobo-Zavala*, 241 F.3d

1009, 1013 (8th Cir. 2001) (“The court is limited to assessing whether the government’s motion is contrary to the manifest public interest because it is not based in the prosecutor’s good faith discharge of her duties.”).

In this case the Defendant is to be removed shortly from the United States by the United States Department of Homeland Security - Immigration and Customs Enforcement. Accordingly, the Defendant will be unable to appear in court pursuant to his bail conditions. Counsel for Defendant indicated he was not opposed to the government’s motion.

Under the circumstances, the government submits that dismissal of the complaint is in the interest of justice. The government therefore moves for leave to dismiss the complaint without prejudice.

Dated: April 17, 2025

Respectfully submitted,

CRAIG M. WOLFF  
ACTING UNITED STATES ATTORNEY

/s/ Peter I. Brostowin  
Peter I. Brostowin  
Assistant United States Attorney  
United States Attorney’s Office  
100 Middle Street, 6<sup>th</sup> Floor  
Portland, Maine 04101  
(207) 780-3257

**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2025, I filed the foregoing **Motion for Leave to Dismiss Complaint without Prejudice** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

**Corey Stone, Esq.**

CRAIG M. WOLFF  
ACTING UNITED STATES ATTORNEY

/s/Peter I. Brostowin  
Peter I. Brostowin  
Assistant U.S. Attorney  
U.S. Attorney's Office  
100 Middle Street, 6<sup>th</sup> Floor  
Portland, ME 04101  
(207) 780-3257